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March 13, 2006

Jon Bishop
Executive Officer
Los Angeles Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Re: Comments on the Tentative Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System Permit (NPDES) – County Sanitation Districts of Los Angeles County, Joint Water Pollution Control Plant (NPDES Permit No. CA0053813, Cl-1758)

Dear Mr. Bishop:

On behalf of Heal the Bay, we submit the following comments on the *Tentative WDRs and NPDES Permit for the County Sanitation Districts of Los Angeles County* ("Permittee"), *Joint Water Pollution Control Plant* ("Tentative Permit" or "Permit"). Heal the Bay has closely followed NPDES permit issues at the JWPCP for over 20 years and the organization had intervener status along with the NRDC on the Consent decree that required the plant to get upgraded to full secondary treatment by December 31, 2002. We appreciate the opportunity to provide these comments.

Heal the Bay has significant concerns that the Tentative Permit will not fully protect water quality and beneficial uses of Santa Monica Bay. Our primary concern is that the Tentative Permit does not provide an appropriate enforcement mechanism to ensure that the discharge will meet all water quality objectives prescribed in the California Ocean Plan ("Ocean Plan"). The Permit includes effluent limitations only for a fraction of the constituents listed in Table B of the Ocean Plan. Moreover, performance goals are a weak regulatory mechanism and should not continue to be used as a substitute for Water Quality-Based Effluent Limitation ("WQBELs"). In addition, we urge the Los Angeles Regional Water Quality Control Board ("Regional Board") to replace the existing spill response requirements with a detailed protocol for spill prevention and response in light of the numerous reporting and monitoring issues brought to light by the recent Manhattan Beach and Santa Clarita spills. These comments and others are discussed in more detail below.

I. The Tentative Permit should include WQBELs for all constituents listed in Table B of the Ocean Plan.

On April 21, 2005, the State Water Resources Control Board amended the Ocean Plan to include Reasonable Potential Analysis ("RPA") procedures for determining when a Water Quality-Based Effluent Limitation is required. This RPA approach can *greatly* reduce the number of WQBELs in an NPDES permit. For instance, as a result of RPA, twenty-six

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effluent limitations in Order No. 97-090 are not included in the Tentative Permit. Thus, the Tentative Permit contains only 21 effluent limitations, whereas Order No. 97-090 has 43 effluent limitations. As a result, many of the water quality objectives provided in Table B of the Ocean Plan have no associated effluent limitation prescribed in the Tentative Permit. "Instead, a narrative limit statement to comply with all Ocean Plan objectives is provided." (Tentative Permit at F-20). This doesn't make any sense; why not just continue to include the limits that have been in the previous permits?

To remedy this situation, the Regional Board should employ Best Professional Judgment ("BPJ") in prescribing WQBELs in the Tentative Permit and not the RPA approach.[1] This is supported by the complex nature and multiple sources of influents to the JWPCP from industrial[2], commercial and residential sources. There is a great deal of latitude under the Ocean Plan to use BPJ to include constituents that that are not prescribed WQBELs under the RPA approach. Plainly, the influent is dynamic and effluent limitations are necessary to account for any changes in influent and effluent quality. For instance, the County has expressed a willingness to divert metal-laden runoff and stormwater to the JWPCP as a compliance measure for various Total Maximum Daily Loads (TMDLs). In addition, a number of metal plating and manufacturing facilities are within the JWPCP wasteshed and have the potential to contribute high metal loads and concentrations to the influent. As written, the Tentative Permit does not include effluent limitations for most metals including such commonly found metals as cadmium, copper, lead, mercury, nickel, silver and zinc. Given that stormwater and nuisance runoff in Los Angeles County is very high in metals, it is not justifiable simply to conclude that the quality of JWPCP's discharge will remain relatively constant or improve during this permit term. Moreover, due to the de-listing of Santa Monica Bay for metals in 2002, the public cannot rely on other protections to prevent metal discharges to the Bay. Instead, the public must rely on NPDES permits, like the Permit currently under consideration to ensure that metals standards are not exceeded. In short, the Tentative Permit should include WQBELs based upon *all* water quality objectives listed in Table B of the Ocean Plan.

On a larger scale, the Regional Board should consider whether such a relaxation in the number of effluent limitations is sound public policy for the water body in the period to be governed by the new permit. The RPA approach should not grant dischargers "free exceedances" of the Ocean Plan Table B constituents without a risk of enforcement. The current permit does just that. In addition, maintaining effluent limitations from Order No. 97-090 provides no additional burden to the Permittee as they would only need to maintain current wastewater treatment facility performance. Thus, including additional WQBELs in the Tentative Permit is an appropriate Regional Board action.

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[1] The Ocean Plan allows for the use of BPJ if information about the receiving water body or the discharge support a reasonable potential assessment (RPA) without characterizing facility-specific effluent monitoring data. (Ocean Plan, Appendix VI).

[2] Of note, the Tentative Permit states that there are more than 1200 significant industrial users discharging to the JWPCP. (Tentative Permit at 4).

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If the Board fails to include WQBELs for all the Ocean Plan Table B constituents, at a minimum, it should at least add specific language in the Tentative Permit that addresses the potential situations where JWPCP discharges effluent that exceeds the Ocean Plan Table B objective multiplied by the dilution factor. Specifically, the Tentative Permit should require immediate reporting of these exceedances. In addition, if an exceedance occurs, the Tentative Permit should require the Regional Board to add a WQBEL for that constituent at *the next upcoming* public hearing. As seen in numerous cases in our region and around the State, this provision is vital in any permit utilizing the RPA approach in order for it to work and remain protective of water quality. As the Board is well aware, the Regional Board is understaffed and has a difficult time keeping up with all of the monitoring data for its large number of NPDES permits. The result is seen most obviously in that case of Boeing's Santa Susana Field Laboratory, where the monitoring data was not reviewed in a timely manner and thus did not lead to required new effluent limits as envisioned by the Board when it issued that permit. A protocol for addressing these issues must be included in the Tentative Permit if the Regional Board continues to apply the RPA approach in these major NPDES permits.

II. Performance goals and mass emission benchmarks should be replaced with enforceable effluent limitations.

Performance goals and mass emission benchmarks are extremely poor regulatory mechanisms, and thus, should be replaced with enforceable effluent limitations. The Tentative Permit argues that "…the continued use of performance goals serves to maintain existing treatment levels and effluent quality and supports State and Federal antidegradation policies." (Tentative Permit at F-27). However, the Permit does not explain *how* these goals and benchmarks will help to ensure that effluent water quality will not backslide or cause degradation of receiving water quality. In fact, it appears that the performance goals provide an open invitation for the discharger to violate Ocean Plan water quality objectives:

> "If the exceedance [of performance objectives] persists in three successive monitoring periods, the Discharger shall submit a written report to the Regional Water Board on the nature of the exceedance, the results of the investigation as to the cause of the exceedance, and the corrective actions taken or proposed corrective measures with timetable for implementation, if necessary."

(Tentative Permit at F-28). What happens in the event that the Permittee exceeds a performance goal every other monitoring period? Under the Tentative Permit, the discharger may be exceeding Ocean Plan water quality objectives without being held accountable. How many performance goals were exceeded in the last permit cycle? The Permittee's 2004 Annual Report data summary tables indicate that there were exceedances of performance goals for total halomethanes, diethylhexyl phthalate, and 2,4,6-trichlorophenol (2004 Annual Report at Table 4-4). What actions, if any, were taken by the Regional Board and the

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Permittee? Plainly, performance goals are extremely ineffective and should be replaced with effluent limitations that prevent backsliding and will ensure the Permittee takes appropriate actions to meet water quality objectives.

If the Regional Board fails to eliminate these ineffective performance goals, it should, at a minimum, modify the performance goal provisions in the Tentative Permit that allow effluent quality to *decrease*. For instance, according to the Permit, performance goals may be increased, "if the Discharger requests and has demonstrated that the change is warranted." (Tentative Permit at 21, footnote 8). In fact, several performance goals in the Tentative Permit have increased from the values in Order No. 97-090. For example, performance goals for phenolic compounds (non-chlorinated), phenolic compounds (chlorinated), diethyl phthalate, beryllium, bis(2-ethylhexyl) phthalate, chloroform, halomethanes, 2,4,6-Trichlorophenol are all higher in the Tentative Permit. Does this mean that when a performance goal is exceeded the only result is an increase in the performance goal itself? The Permittee should not be allowed this mechanism to decrease their effluent quality, especially when the Tentative Permit correctly touts that the enhanced secondary treatment has *improved* effluent quality. Secondly, the approach used to develop performance goals should be modified as it also may lead to a decrease in water quality. For instance, if a constituent is not detected in any monitoring data, the Regional Board sets the performance goal at five or ten times the reporting limit. (Tentative Permit at 21). This calculation approach is inappropriate. The more conservative approach would be to set the performance goal at the reporting limit. Also, why are there no performance goals established for daily maximums or instantaneous maximums as well as monthly average? A logical approach would be to include performance goals for these categories as well if the Board chooses to continue having them in the Tentative Permit at all.

III. The Permittee should evaluate current disinfection practices and further explore impacts of chlorination on the receiving water.

Disinfection byproducts formed by the Permittee's chlorination practices may severely impact the marine ecosystem. Sewage contains high concentrations of organic matter, nitrates, nitrites and ammonia. As a result, the chlorination of sewage forms chloramines very quickly and often produces a wide variety of chlorinated organics in the effluent. Of particular concern is the possibility that chlorinated petroleum-based organics, furanones, fulvics and other non-volatile organics will be formed. Also, any residual chlorine or free chlorine available by the time the effluent hits sea water may lead to the formation of a wide variety of brominated organics.

The Board should require that the Permittee fully evaluate the current chlorination system and any possible receiving water impacts from chlorination practices. Since full secondary treatment was instated during the last permitting cycle, it is important to evaluate impacts of the modified treatment process. After full secondary treatment was achieved in 2003 did the Permittee explore less dosing? Have alternative systems been explored such as

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ozonation or ultraviolet disinfection? Is disinfection still necessary at all? At a minimum, the Permittee should further explore the impacts of chlorination on the receiving water. Although the Permittee conducts effluent monitoring for a handful of chlorinated organics and performs toxicity testing, many questions remain. Is *quarterly* sampling data for chlorinated organics showing us the complete picture of impacts? Have monitoring results detected chlorinated organics in the effluent? If so, have these results exceeded any thresholds? We strongly support changing the monitoring requirements so the effluent is sampled for chlorinated organics at the White Point manifold in lieu of sampling at the current effluent monitoring location. In the Permittee's 1998 *Chlorination By-Product Study*, were three samples enough to assess the statistical significance of parallel chlorination-undisinfected effluent toxicity tests? Typically, three samples will give high variations and very low statistical power. Also, is this Study outdated now that full secondary chlorination is up and running? We believe a new study is warranted that includes a wide variety of disinfection byproducts including the higher molecular weight organics, not just the VOCs and semi-volatiles.

Chlorination by-products are a serious issue that should be further explored by the Permittee. As suggested above, many questions remain regarding impacts of the JWPCP's disinfection process. Plainly, the Permittee should evaluate the existing disinfection process, minimize (or even eliminate if feasible) dosing and closely monitor the effluent and receiving water for impacts.

IV. The Tentative Permit should include a detailed spill reporting protocol.

In light of the devastating sewage spill at Manhattan Beach (01/06) and the U.S. Environmental Protection Agency's *Finding of Violation and Order for Compliance* (Docket No. CWA-402-9-03-31, issued 03/04) issued to the County Sanitation Districts of Los Angeles due to its large number of sewage spills, spill reporting requirements are a serious concern for us. Obviously, JWPCP continues to have significant problems with the conveyance system component of their wastewater program, most notably the pumping plants. As such, strong spill reporting requirements are a vital mechanism for insuring public health and water quality are not compromised. Both the Santa Clara River (12/05) and Manhattan Beach (01/06) spills provide clear examples that the current spill reporting and monitoring system is faulty. Simply stated, the standard language for spill reporting requirements included in the Tentative Permit and other NPDES permits for wastewater treatments facilities in Region 4 is very weak and nonspecific. Moreover, the lack of clarity in the permit language can be interpreted many ways, which translates into inconsistent applications of the current spill response protocol. Thus, the Regional Board should thoroughly re-examine this language at this time and include a more detailed protocol for appropriate spill response measures.

A. Public Notification should take place as soon as possible but not later than two hours after knowledge of an incident.

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For spills over a certain volume, the Spill Reporting Requirements in the Tentative Permit require notification of the Regional Board, Office of Emergency Services and the local health agency "as soon as possible but not later than 24 hours of knowledge of the incident." (Tentative Permit at 35 (2a)). This language is improper as there is no possible justification for needing the 24-hour maximum. After a spill is identified by a responsible party, notification should take place *immediately*, so that water quality and public health are not compromised due to a reporting time-lag and appropriate protective measures are implemented in a timely fashion. A two-hour maximum for completing public notification is more appropriate as public notification will become a priority for the discharger in the event of a spill and not just an after-thought. Notification can not consist of leaving a message on an answering machine. Notification must be directly to a RWQCB staff member. In addition, the Regional Board should require that the County Sanitation Districts include local media as part of the public notification protocol for spills deemed a threat to public health.

B. All spill incidents, regardless of volume, should be reported and noticed to the appropriate public agencies and the general public.

The Spill Reporting Requirements in the Tentative Permit require notification of the Regional Board, Office of Emergency Services and the local health agency "for spills, overflows or bypasses of 500 gallons or more that flowed to receiving waters or entered a shallow ground water aquifer or has public exposure, and all spills, overflows and bypasses of 1,000 gallons or more…" (Tentative Permit pg.35-(2a)). This language is unnecessarily weak for several reasons. First the spill volume triggers appear arbitrary. How were these threshold volumes generated, and under what conditions might they fail to adequately protect public health or beneficial uses? Is the Regional Board suggesting that a 499 gallon spill to a receiving water will not be problematic? In fact, in some instances spills of a volume less than 500 gallons can be as much of a water quality and public health concern as a 1,000 gallon spill. In addition, these requirements fail to account for other circumstances such as proximity to receiving waters, time of spill, and flow volumes in the receiving water. In many cases, the location of the spill is a more important factor than the volume spilled. For instance, if 450 gallons of raw sewage were spilled into Santa Monica Canyon at the wave-wash, this would definitely be a public health issue. Yet as written in the Tentative Permit, the 450 gallon sewage spill would not have to be reported in a timely manner. Shouldn't factors such as proximity to the receiving water, receiving water flow, and time of day be accounted for in the spill reporting and public notification requirements? In addition, frequent, small volume sewage spills can be indicative of a larger issue with plant performance. Thus, receiving early notification on sewage spills under the current 500 gallon trigger can be extremely valuable.

C. The monitoring portion of the Spill Reporting Requirements should be enhanced to adequately characterize the spill impacts.

The Tentative Permit also requires monitoring by the Permittee after a spill, overflow or bypass of 500 gallons or more that reaches a receiving water (Tentative Permit at 35 (2b)).

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Specifically, the Permit only requires bacteria sampling upstream and downstream of the point of entry on a daily basis. *Id*. As questioned above, why are spills under 500 gallons not sampled? Does the Regional Board not see a 450 gallon spill as a threat to water quality? The Tentative Permit should require sampling for *any* spill reaching a receiving water, as this is an unregulated discharge to a surface water. In addition, the Tentative Permit should outline a specific protocol for monitoring that captures the size of the plume and any variability in the system.

The Regional Board should outline a specific water quality monitoring protocol that includes parameters, such as frequency (i.e. daily or hourly sampling), number of sample points (i.e. 3 upstream and 3 downstream), time of collection (a set time after a spill has been reported), upstream and downstream distances of the spill (i.e. every 100 yards). Such a protocol is necessary to capture the variability in the type of spill and current environmental conditions such as tides, flows, time of day, and currents. Also, all spills that visibly reach receiving waters must be monitored immediately. Waiting 12 hours after the spill reaches receiving waters is not acceptable. It should take no more than two hours to initiate receiving water sampling after a spill reaches the beach.

In addition, the Tentative Permit should require that the Permittee secure a third, unbiased party to collect samples concurrently with its own sampling. In other words, the agency responsible for the pollution should not be the only party monitoring all aspects of a possible catastrophic event. This weakness was unfortunately highlighted during the recent Manhattan Beach spill. Ideally, this should be the Los Angeles County Department of Health Services should be the independent third party, but as we saw in the recent Manhattan Beach spill, the health department failed to provide that role. Many parties and the public have questioned how the Manhattan Beach sewage spill was handled in terms of volume estimates and sampling protocol, both of which were conducted solely by the County Sanitation Districts. A third party involvement in such an effort helps to ameliorate, if not eliminate, perceived or actual bias in the reporting process.

Finally, the Tentative Permit does not require sediment assessment after a sewage spill. As seen in the Manhattan Beach spill, the sand was a major haven for bacteria, yet the sand was not sampled until third parties requested sampling. Notably, this was after several people complained of illness after being in the sand. In addition, loading of bacteria from a spill can impact sediment in receiving waters. Thus, the Regional Board should require that the entire sewage spill plume be tracked in the sediment as well as the water column.

A simpler, more cost effective alternative is for the Regional Board to prohibit containing sewage spills on the sand except in case of extreme emergency. As was demonstrated in the Manhattan Beach spill, containment of the spill on the sand led to the loss of the beach beneficial use for two months, whereas a spill going to the surfzone may have caused a closure of one week at the longest. A requirement for spill management and containment must be to reduce impacts to beneficial uses for a minimum time period.

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V. The Monitoring and Reporting Program (MRP) should be enhanced to adequately characterize impacts from the discharge.

A. Bay Monitoring

Heal the Bay has a number of concerns about the monitoring and reporting program (MRP). Like the Hyperion Treatment Plan permit, once again, the Regional Board is making a decision on a MRP without having an approved Santa Monica Bay monitoring program. As Heal the Bay has stated in commenting on numerous discharge permits in the past 13 years, developing and implementing a Bay-wide monitoring program is critical for assessing the health of the Bay. We are supportive of the Board's efforts to require LACSD participation in the Bay-wide monitoring effort, but we continue to be frustrated at the slow pace of the program's development and implementation. Inclusion of a participation date within the permit would help ensure that the Santa Monica Bay Restoration Commission (SMBRC) would complete and approve the monitoring program in a timely manner and the Regional Board would require implementation of key elements of the monitoring plan by a date certain. We suggest including a requirement to help implement the Bay-wide monitoring plan by June, 2007 at the latest.

B. Rocky Sub-tidal Monitoring

In the 1997 JWPCP NPDES permit, there were requirements to annually monitor 12 rocky sub-tidal inshore diving stations along four transects. (See T-31 of No. CI-1758). The annual surveys included qualitative estimates of fish abundance, description of conditions on the bottom, and quantitative surveys (with counts of organisms living on the substrate and percent cover on the substrate) of transects laid along a uniform depth contour of 80 feet. Community structure analyses of the quantitative transect survey data was conducted for each station.

This requirement was eliminated from the Tentative Permit. Why was the requirement eliminated since it provides critical data on the health of a poorly monitored community? Recall that nearly all of the monitoring requirements in the permit are for the soft bottom habitat and that the gap of poor monitoring in the rocky sub-tidal habitat is a primary priority of the SMBRC. Heal the Bay strongly urges the Board to maintain this requirement and to add to it by including monitoring requirements for the Palos Verdes shelf kelp forests.

The LACSD has long monitored the health of the PV shelf kelp forests, yet there are no requirements to continue or modify this effort under the draft permit. In fact, the permit includes participation in the Central Region Kelp Survey Consortium, yet there are no requirements to monitor the very kelp forests that are potentially impacted by JWPCP discharges. This oversight should be corrected. Heal the Bay urges the board to require staff to meet with LACSD biologists to develop a mutually agreed upon kelp forest monitoring program for the PV shelf. The Santa Monica Baykeeper, due to their extensive ongoing restoration efforts, and Reef Check should be consulted in the process. Among the

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parameters that should be annually assessed include canopy, density, kelp forest health, community structure in the forest (see above), etc.

C. Bioaccumulation and Seafood Safety Monitoring

Lipid values vary dramatically in fish based on the season due to the impacts of reproductive cycles. Although Heal the Bay supports the annual monitoring frequency, we urge the Board to work with the LACSD staff to determine the most appropriate time of year to collect the fish for bioaccumulation and chemical contamination. Ideally, the Districts should collect the fish during the season when they have the highest lipid concentrations. This "worst case scenario" sampling would be the most protective of human and ecological health.

The Seafood safety monitoring requirements include participation in the regionally coordinated survey. The permit clearly states the Districts' requirements, but the MRP does not provide the context of the overall level of effort for the program. It is difficult to assess whether or not the regional fish contamination monitoring effort is appropriate without this larger context. Could the Regional Board provide a brief description of the program (number and location of samples, geographic scope in more detail, season for sampling, etc)?

The seafood survey requires specific requirements for rockfish collection. Why are these species (scorpionfish and bocaccio) included as opposed to other rockfish? In addition, the monitoring program is designed to provide information critical to determining the public health risks of seafood consumption yet the pelagic species are not included. Please include mackerel, bonito, and jacks or locally caught tuna, or provide an explanation for why they are not part of the seafood safety monitoring program. Considering that mackerel and bonito are such commonly caught local fish and mercury is a potential concern for pelagic species, these species should be added to the monitoring effort.

D. Impacts of Full Secondary Treatment

The MRP does not include an assessment of how the monitoring program will help determine the impacts of the JWPCP going to full secondary treatment. As you know, the TSS, BOD and pollutant loads from the JWPCP decreased dramatically after the facility upgraded to full secondary treatment in 2002. The MRP and the findings do not include an explanation of how the proposed monitoring program will help the Board and the LACSD assess the impacts of full secondary treatment on biological community health, water and sediment quality, and fish contamination. This must be a critical part of the intent of the MRP. Was the MRP drafted to help assess these impacts? If not, why not? The MRP must assess the impacts of these changes in a manner at least as effective as the City of Los Angeles' monitoring efforts after they went to full secondary in 1998. In addition, a summary of the impacts of full secondary on mass pollutant loads, effluent concentrations and toxicity should be provided in the permit.

E. Monitoring for Chlorinated Organics

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As stated below, Heal the Bay remains concerned about the potential environmental impacts of sewage effluent chlorination. Certain halogenated organics of concern have reduced monitoring frequencies like chlorinated phenols (monthly to quarterly), constituents that are discharged in relatively high mass from the JWPCP. Heal the Bay would not object to reducing monitoring frequency if there wasn't so much of the MRP that relies on the SMBRC Bay-wide monitoring plan. Until such time that the Bay-wide plan is completed and the LACSD starts helping to implement the plan, further study on the impacts of chlorination post-full secondary would be extremely helpful. The disinfection byproduct study completed by the LACSD was over 8 years ago, it was on mixed primary/secondary effluent, and it used MLs that may be higher than the methods currently used by the Districts. Heal the Bay recommends that the Board require and updated chlorination byproduct study on JWPCP's effluent where the effluent is collected from the outfall manifold at Whites Point. This study should include effluent analyses for halogenated organics ranging from VOCs to higher molecular weight – non-volatile organics.

Page E-42 footnote 3 states that fecal coliform sampling can be omitted at the inshore stations if the total coliform sampling program demonstrates compliance with the fecal coliform limits. Please specify that this only applies to methods where quantification of fecal coliforms takes longer than total coliforms. With the impending arrival of rapid indicator detection methods, this may not be the case in the near future.

F. Toxicity Monitoring

Following up on our concern about the impacts of chlorination on effluent quality, please clarify where toxicity samples are collected. We strongly support a requirement to collect the samples for toxicity testing from the outfall manifold at Whites Point because samples collected there will better mimic effluent water quality at the Whites Point outfall than samples collected at the JWPCP. During the travel time for the effluent, all free chlorine will react with the sewage, thereby potentially changing the concentration of disinfection byproducts and toxicity of the effluent.

Please provide an explanation for why the samples tested for chronic and acute toxicity samples are collected from different outfalls? It appears as if acute toxicity samples are collected from outfalls 001 and 002 while chronic toxicity samples are collected from 003 and 004. Is that correct? If so, why?

G. Mass Emission Benchmarks

Please provide a clear explanation of how the mass emission benchmarks were derived in the MRP.

H. Toxicity Reduction Evaluations and Toxicity Identification Evaluation

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The TRE requirements do not include language requiring the elimination of ongoing toxicity problems. This should be clearly stated as a requirement. Also, the provisions do not include a clear trigger for a TIE. In fact, F-3 states that a discharger **may** initiate a TIE as part of the TRE process to identify the cause(s) of toxicity, while F-2 requires a TIE in the event that previous steps don't eliminate the problem. A far more practical approach is to require TIEs every time that there toxicity is found in the effluent. At least a basic screen to assess the category of pollutants that caused the toxicity should occur soon after toxicity violations occur. To wait to perform a TIE after initiation of a TRE makes little sense as Step 2 (optimization of treatment operations, facility housekeeping, and selection and use of in-plant process chemicals) of a TRE will be more effective if the cause of the toxicity is known. Heal the Bay urges the Board to clearly state that TIEs are required when toxicity is found in the effluent. The language in the permit will lead to few TIEs and will not enhance our currently poor understanding of the causes of effluent toxicity in discharger effluent.

A minor clarification request, for G-1d – Shouldn't there be a sentence that states that if the zeolite treated effluent still causes toxicity in the effluent, then the discharger must perform a TIE to determine the cause of the additional toxicity?

VI. Additional Major Concerns

- Section IV.4 of the Tentative Permit includes the JWPCP's waste load allocation of zero days exceedance of single sample numeric limits at shoreline compliance points for fecal indicator bacteria, as specified in Regional Board Resolution Nos. 2002-004 and 2002-022. (Tentative Permit at 23). Why are the rolling 30-day Geometric Mean Limits not included in the Tentative Permit? The Tentative Permit should incorporate these numeric targets as well since they are part of the Santa Monica Bay beach fecal bacteria TMDL.

- The ROWD was submitted to the Regional Board on November 9, 2001. This raises the question as to whether the Tentative Permit is based on the most current information. Since full secondary treatment did not occur until January 2003, outdated information may be a major issue. The Board should ensure that it has all the available information it needs to fully evaluate this discharge. Also, the Board should describe all of the information, including the date, used to write the permit.

- Mass emission limitations are based on the average design flow of 385 mgd. (Tentative Permit at F-23). This is not protective of receiving waters. The Regional Board should use the average effluent discharge flow of 322 mgd, as this number represents the actual flow volume. (Tentative Permit at 4). By utilizing the design flow, the Board is allowing much higher mass emissions than is merited based on plant operation.

VII. Other Concerns

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- The Tentative Permit requires the discharger to submit suggestions for special studies annually for approval. This requirement is vague and gives no indication of the types of studies and scope that will be required. The Regional Board should provide more detailed requirements.

- There is inconsistency among effluent limitations specified for discharges to different outfalls. Why are there no acute toxicity effluent limits for discharges to Serial Nos. 003 and 004? Also, why is there only an effluent limit for 2,4,6-Trichlorophenol for Serial No. 004 and not the other outfalls?

- The Tentative Permit requires a re-screening of species for acute toxicity testing every 24 months (Tentative Permit at F-31). Three species should be used for re-screening in order to better account for varying sensitivities.

- The Tentative Permit should include information on the MLs that JWPCP currently uses for all Ocean Plan, Table B constituents. Providing this information will provide the public and the RWQCB members with a way to compare MLs to the Table B limits and WQBELs in the permit. Ideally, all of the MLs are below the Table B limit values.

- A year by year summary of influent and effluent water quality with average and maximum concentrations would be very useful in the Tentative Permit's Fact Sheet. This would be especially useful to understand water quality changes after wastewater treatment facility modifications to reach full secondary treatment. In addition, a detailed, year by year, compliance summary (WQBELs and toxicity) for the JWPCP and its discharge should be provided in the permit. Did the compliance summary provided on page F-10 of the fact sheet include toxicity?

If you have any questions or would like to discuss any of these comments, please feel free to contact us at (310) 451-1500. Thank you for your consideration of these comments.

Sincerely,

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